

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

MELVIN THOMAS,

Plaintiff,

vs.

Case No. CV 99-J-896-W

TRANZIE LOVELESS; LAURA
LOVELESS; BRIAN BLAZER;
ANITA BLAZER; EDDIE WALDROP;
BRENDA WALDROP; JEROME
KENNEDY; PHILLIP FARMER;
JEFF SMITH; and BUD TURNER,

Defendants.

ENTERED
JAN 4 2001
asl

MEMORANDUM OPINION

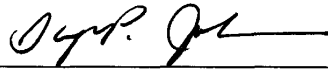
The magistrate judge filed his third report and recommendation in this case on October 3, 2000, to which the plaintiff filed his objections on October 31, 2000. The court has carefully considered *de novo* all of the materials in the court file and concludes that the magistrate judge is correct with respect to his recommendation that summary judgment be granted in favor of defendant Jerome Kennedy. Even assuming as true all of the facts alleged by the plaintiff concerning a conspiracy between Kennedy and defendant Tranzie Loveless, that is a purely private conspiracy, not one involving the abuse of power under color of state law. Absent some state action or action undertaken under "color of state law," no federal constitutional right is implicated and no cause of

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action can be stated under § 1983. While plaintiff may have remedies under state law, § 1983 simply does not apply to torts committed against him by purely private defendants.

By a separate order, the court will grant defendant Kennedy's motion for summary judgment and dismiss the claims against him.

DATED this 4 day of January, 2001.

A handwritten signature in black ink, appearing to read "Inge P. Johnson", is written over a horizontal line.

INGE P. JOHNSON
U.S. DISTRICT JUDGE